

### REMARKS

Claims 1-20 are pending in the present application with claims 1, 8, and 13 as being the independent claims.

Claims 1-20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

The examiner maintains that the claims do not recited a practical application by producing a physical transformation or tangible result. In particular, the examiner contends that to perform a physical transformations “the claimed invention must transform an article or physical object into a different state or thing.”

Applicants submit that the examiner misstates the law. See, e.g., *State Street Bank & Trust Company v. Signature Financial Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998). Moreover, according to the USPTO’s own guidelines, Overview of Interim Guidelines for Subject Matter Eligibility, it is noted that there are:

Two ways to provide a practical application of a judicial exception:

Physical Transformation,  
OR

Produce A Useful, Concrete, and Tangible Result

Accordingly, even under the PTO’s own guidelines, it is incorrect to say that the claimed invention *must* transform an article or physical object into a different state or thing.

In the present application, Applicants submit that the claims fall within the enumerated statutory categories of § 101. Claims 8-12, for example, are directed to systems and recite a query generation mechanism. Moreover, the claimed inventions produce a useful, concrete and tangible result. For all of the foregoing reasons, Applicants respectfully request that the examiner withdrawal the rejection of the claims under § 101.

Claims 7-12, 20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The examiner contends that the claims recites a computer-readable medium bearing a computer-readable instruction and system, however, there is no hardware components (i.e., processor) to enable the function to be realized.

Applicants have canceled claims 7 and 20.

Regarding claims 8-12, applicants respectfully disagree. First, the claims do not recite "a computer-readable medium bearing computer-readable instruction and system." Second, Applicants submit that there is no requirement to recite "hardware components (i.e., processor) to enable the function to be realized." Applicants respectfully request that the examiner provide legal authority for such a proposition. Applicants direct the examiner to the landmark decision of *In re Beauregard*, 53 F3d 1583, 35 USPQ2d 1383 (Fed. Cir. 1995).

Claims 1-13, 17-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Rylander et al. (U.S. Patent No. 6,748,384). Applicants respectfully disagree.

Regarding claim 1, the examiner contends that Rylander teaches:

sending the query to at least two different objects (as desired summary data provided by the user, col. 9, lines 17-18), wherein each object determines whether an in-memory data structure maintained by each object satisfies the query (as a program determine which records and which fields of such records to query for summarizing the data stores in according to the user's desired, col. 8, lines 49-54).

Official Action p. 4. The portion of Rylander cited by the examiner as teaching "sending the query to at least two different objects" recites:

On the other hand, the user may request a summary (e.g., through the summary definition provided by the user) which provides a combined total hourly usage of both switches S.sub.1 and S.sub.2, in which case the resulting summary data will include a single, combined total hourly usage for switches S.sub.1 and S.sub.2 in this latter case, the generated software code may execute to construct information from two different data stores (e.g., one for each of switches S.sub.1 and S.sub.2), and then sum the total usage of each switch for each hour to result in a combined hourly usage total for the two switches as the summary data. Accordingly, it should be recognized that the resulting summary data may not be obtained directly from a data store, but instead, the generated software code may perform particular operations on the data constructed from one or more data stores to result in the desired summary data. Therefore, when the present disclosure describes that the generated software code constructs the desired summary data from one or more data stores, it should be recognized that such "constructing" is not limited merely to directly retrieving the data from the one or more data stores, but is intended to also

encompass manipulating data retrieved from such one or more data stores (e.g., through performing mathematical operations with such data) in order to "construct" the desired summary data.

While the above portion does teach that data is retrieved from two data stores, it does not teach that the same query is sent to both data sources. In fact, the above portion indicates that the data retrieved from the data stores may need to be "manipulate[ed]." Applicants submit that the above excerpted portion does not teach sending a query to different objects. Moreover, Rylander also fails to teach "wherein each object determines whether an in-memory data structure maintained by each object satisfies the query" as required by claim 1. Accordingly, Applicants submit that claim 1 patentably defines over Rylander for at least the above reasons.

Regarding independent claim 8, the examiner provided no basis for rejecting the claim. Rather the examiner relied on the arguments made with respect to claim 1. Applicants submit that claim 8 has additional limitations not found in Rylander. In particular, Rylander at least does not teach:

a query transmission mechanism for transmitting the type query and the value over a communication network to at least two digital devices whereby each digital device compares the data type to a data type of a data structure that it maintains in-memory and compares the value to a value stored in the data structure wherein said data structure is one of at least two different formats.

Regarding independent claim 13, Applicants submit, as noted above with respect to claim 8, that claim 13 has limitations not found in Rylander. In particular, Rylander does not teach:

receiving a query specifying a query data type and a query value;  
comparing the query data type to the data structure data type and the query value to the value stored in the data structure;

In as much as claims 2-6, 9-11, and 17-20 depend from claims 1, 8 and 13, Applicants submit that they also patentably define over Rylander for at least the same reasons.

**DOCKET NO.:** MSFT-0737 / 183219.01

**PATENT**

**Application No.:** 10/017,689

**Office Action Dated:** August 2, 2006

Claims 14-16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Rylander et al. (U.S. Patent 6,748,384).

Inasmuch as claims 14-16 depend from claim 13, Applicants submit that they also patentably define over Rylander for at least the same reasons as claim 13.

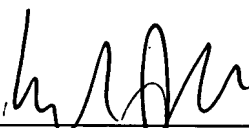
**DOCKET NO.:** MSFT-0737 / 183219.01  
**Application No.:** 10/017,689  
**Office Action Dated:** August 2, 2006

**PATENT**

**CONCLUSION**

Early consideration and allowance of the above-referenced patent application is respectfully requested.

Date: November 1, 2006

  
\_\_\_\_\_  
Michael J. Swore  
Registration No. 38,041

Woodcock Washburn LLP  
One Liberty Place - 46th Floor  
Philadelphia PA 19103  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439